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Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

MITCHELL WEST, an individual, } Cause No. _____.
Plaintiff, }
v. } NOTICE OF REMOVAL
STATE FARM MUTUAL AUTOMOBILE }
INSURANCE COMPANY, }
Defendant. }

PLEASE TAKE NOTICE THAT defendant STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY ("Defendant") hereby gives notice that the above action is removed from the Thirteenth Judicial District Court of the State of Montana, Yellowstone County, in which said cause is now pending, to the United States District Court for the District of Montana pursuant to 28 U.S.C. §§ 1331, 1441, and 1446. In support of this Notice of Removal, Defendant states as follows:

I. THE PROCEDURAL REQUIREMENTS FOR REMOVAL ARE SATISFIED.

A. Defendant is the only defendant in an action now pending in the Thirteenth Judicial District Court of the State of Montana, Yellowstone County, entitled *MITCHELL WEST v. STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY*, Case No. dv 15-1351.

B. Plaintiff Mitchell West (“Plaintiff”) filed his initial Complaint on October 14, 2015. Defendant was served with the Complaint October 19, 2015.

C. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely because it is filed within 30 days after Defendant was served with the Complaint.

D. As required by 28 U.S.C. § 1446(a), a true and accurate copy of all pleadings filed in the Thirteenth Judicial District Court, Yellowstone County are attached hereto as **Exhibit A**.

E. This Notice of Removal is properly directed to this Court pursuant to 28 U.S.C. § 1446(a), as it is the District Court embracing Yellowstone County, Montana, where Plaintiff’s action is pending. *See* 28 U.S.C. § 117.

F. In accordance with 28 U.S.C. § 1446(d), Defendant is promptly filing a Notice of Filing Notice of Removal with the Clerk of the Thirteenth Judicial

District Court, Yellowstone County, where Plaintiff's action is pending, and giving written notice to the state court and all parties to the Thirteenth Judicial District Court Lawsuit.

II. THIS COURT HAS FEDERAL QUESTION JURISDICTION.

A. Plaintiff alleges employment discrimination under the Americans with Disabilities Act, a federal statute 42 U.S.C. § 12101 et seq. (See Plaintiff's Complaint ¶7.)

B. This Court has federal question jurisdiction over this matter.

C. This Notice of Removal is filed subject to and with full reservation of rights. No admission of fact, law or liability is intended by this Notice of Removal, and all defenses, motions and pleas are expressly reserved.

WHEREFORE, Defendant hereby removes the above-referenced state court action pending in Thirteenth Judicial District Court, Yellowstone County to the United States District Court for the District of Montana, where it shall proceed.

DATED this 4th day of November, 2015.

TONKON TORP LLP

By: /s/Clay D. Creps

Clay D. Creps, MT Bar No. 2760
Attorneys for Defendant

I hereby certify that I served the foregoing **NOTICE OF REMOVAL** on:

Eric E. Holm
Sather & Holm, PLLC
2301 Montana Ave, Ste 202
PO Box Billings, MT 59103
eric@satherandholm.com

- by faxing a copy thereof to each attorney at his last-known facsimile number on the date set forth below;
- by mailing a copy thereof in a sealed, first-class postage prepaid envelope, addressed to said attorney's last-known address and depositing in the U.S. mail at Portland, Oregon on the date set forth below;
- by causing a copy thereof to be e-mailed to said attorney at their last-known e-mail address on the date set forth below;
- by causing a copy thereof to be hand-delivered to said attorneys at each attorney's last-known office address on the date set forth below;
- by sending a copy thereof via overnight courier in a sealed, prepaid envelope, addressed to each attorney's last-known address on the date set forth below.

DATED: November 4, 2015.

TONKON TORP LLP

By /s/ Clay D. Creps

Clay D. Creps, MT Bar No. 2760
TONKON TORP LLP
1600 Pioneer Tower
888 S.W. Fifth Avenue
Portland, OR 97204
Attorneys for Defendant



C O R P O R A T I O N S E R V I C E C O M P A N Y®

null / ALL

Transmittal Number: 14367847
Date Processed: 10/19/2015

Notice of Service of Process

Primary Contact: State Farm Enterprise SOP
Corporation Service Company- Wilmington, DELAWARE
2711 Centerville Road
Wilmington, DE 19808

Entity: State Farm Mutual Automobile Insurance Company
Entity ID Number 3461675

Entity Served: State Farm Mutual Automobile Insurance Company

Title of Action: Mitchell West vs. State Farm Mutual Automobile Insurance Company

Document(s) Type: Summons/Complaint

Nature of Action: Contract

Court/Agency: Yellowstone County District Court, Montana

Case/Reference No: DV 15-1351

Jurisdiction Served: Montana

Date Served on CSC: 10/19/2015

Answer or Appearance Due: 21 Days

Originally Served On: CSC

How Served: Personal Service

Sender Information: Eric E. Holm
406-294-1700

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To avoid potential delay, please do not send your response to CSC

CSC is SAS70 Type II certified for its Litigation Management System.

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SATHER & HOLM, PLLC
2301 Montana Ave., Ste. 202
P.O. Box 1115
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eric@satherandholm.com
Attorney for Plaintiffs

COPY

**MONTANA THIRTEENTH JUDICIAL DISTRICT COURT,
YELLOWSTONE COUNTY**

MITCHELL WEST,)
Plaintiff,) Cause No.: DV 15-1351
v.) Judge: ROD SOUZA
STATE FARM MUTUAL AUTOMOBILE)
INSURANCE COMPANY,)
Defendant.)

SUMMONS

To: STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY: CSC

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (or 42 days if you are the State of Montana, a state agency, or a state officer or employee), you must serve on the plaintiffs an answer to the attached complaint or a motion under Rule 12 of the Montana Rules of Civil Procedure. Do not include the day you were served in your calculation of time. The answer or motion must be served on the plaintiff or plaintiff's attorney, if plaintiff is represented by an attorney, whose name and address is listed above.

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint.

You must file your answer or motion with the court.

Date: October 14, 2015

Kristie Lee Boelter: Clerk of the District Court

(Seal)

By:

Bonnie Spurlock
Deputy Clerk

Eric E. Holm
SATHER & HOLM, PLLC
2301 Montana Ave., Ste. 202
P.O. Box 1115
Billings, MT 59103
Phone: (406) 294-1700
Fax: (406) 794-0673
eric@satherandholm.com
Attorney for Plaintiffs

COPY

CLERK OF THE
DISTRICT COURT
KRISTEN LEE DOELTER
2015 OCT 14 PM 3 23
FILED
BY DEPUTY

**MONTANA THIRTEENTH JUDICIAL DISTRICT COURT,
YELLOWSTONE COUNTY**

MITCHELL WEST,) Cause No.: DV 15-1351
Plaintiff,) Judge: ROD SOUZA
v.)
STATE FARM MUTUAL AUTOMOBILE) COMPLAINT AND DEMAND
INSURANCE COMPANY,) FOR JURY TRIAL
Defendant.)

Plaintiff, by and through their counsel of record, Sather & Holm, PLLC, states and alleges as follows:

COMPLAINT

1. Plaintiff is an individual who, at all relevant times, has resided in Billings, Yellowstone County, Montana.
2. Upon information and belief, Defendant is an Illinois corporation doing business in the State of Montana.
3. Plaintiff filed a charge of discrimination against Defendant with the Montana Human Rights Bureau and United States Equal Opportunity Commission. On

or about September 17, 2015, a Notice of Dismissal and Notice of Right to File Civil Action in District Court was issued, granting Plaintiff the right to file suit against Defendant. As a result, Plaintiff has exhausted his administrative remedies.

4. Plaintiff was employed by Defendant in Billings, Yellowstone County, Montana, at all relevant times until February 2015, when his employment was terminated.

5. Plaintiff is a qualified individual with a physical or mental disability.

6. Defendant is a covered entity under the Americans with Disabilities Act and an employer subject to the Montana Human Rights Act.

7. Defendant intentionally discriminated against Plaintiff on the basis of his disability or disabilities, failed to accommodate Plaintiff's disability or disabilities, and retaliated against Plaintiff for his protected activity, all in violation of the Americans with Disabilities Act and the Montana Human Rights Act.

8. As a result of Defendant's actions, Plaintiff has suffered compensatory and other damages and is entitled to an award for all available damages, punitive damages, attorneys' fees, costs, and equitable relief.

WHEREFORE, Plaintiff requests relief as follows:

1. For judgment to be entered against Defendant and in Plaintiff's favor;
2. For those damages allowed by law for the injuries and losses to Plaintiff;
3. For punitive damages;
4. For attorneys' fees and costs;
5. For equitable relief; and
6. For such other relief as the Court may deem just and proper.

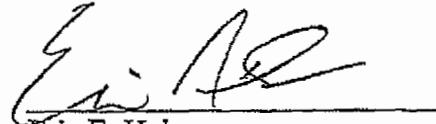
DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial on all issues so triable.

DATED this 14th day of October, 2015.

SATHER AND HOLM, PLLC

By:


Eric E. Holm
Attorney for Plaintiff